

## **3 FAM 3400 PAID LEAVE**

## **3 FAM 3410 ANNUAL LEAVE**

*(TL:PER-367; 04-08-1999)*

### **3 FAM 3411 GENERAL**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. An employee who has followed prescribed procedures for requesting and receiving approval of annual leave has a right to that leave (subject to the supervisor's right to fix the time at which leave may be taken).

b. The supervisor has the obligation to consider both the needs of the office and the employee's right to schedule and take annual leave before approving requested leave. However, the supervisor must not deny or cancel leave for arbitrary or capricious reasons.

c. Supervisors will ensure, consistent with work requirements, that each employee is permitted to take a regular vacation each year.

d. Both management and employees are responsible for the planning and effective scheduling of annual leave for use throughout the year to avoid forfeiture.

e. An employee's failure to schedule annual leave in order to avoid forfeiture does not relieve management of its responsibility to ensure that an employee's leave is in fact scheduled for use.

f. An employee who refuses to schedule leave for use during the leave year is not entitled to restoration of forfeited annual leave.

### **3 FAM 3412 OFFICERS IN CHARGE**

*(TL:PER-367; 04-08-1999)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

An officer in charge of an establishment *abroad* who accrues annual leave should schedule and take such leave at times and for periods when

absences from the post will not adversely affect the interests of the United States.

### **3 FAM 3413 SCHEDULING, CANCELING, REQUESTING, AND APPROVAL OF ANNUAL LEAVE**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Scheduling of an employee's annual leave early in the year helps the manager plan staffing over the year to meet work demands, and provides ample time and opportunity for rescheduling of leave when personal plans change or operational demands require a change.

#### **3 FAM 3413.1 Scheduling Annual Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. Annual leave must have been scheduled in advance, in writing, before the start of the third biweekly pay period prior to the end of the leave year in order to be considered for leave restoration. An informal leave schedule is not sufficient to meet this requirement.

b. Leave that was requested and initially disapproved is not scheduled annual leave for restoration purposes.

#### **3 FAM 3413.2 Request and Approval**

*(TL:PER-367; 04-08-1999)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. Requests for annual leave must be submitted to the approving official in advance using the SF-71, Application for Leave, or other authorized form with identical information. In the case of an emergency, the employee must notify the approving official of the leave as soon as possible. If a supervisor cannot approve an employee's leave for the period requested, the supervisor and employee must workout a mutually acceptable time for scheduling the leave.

b. Except for officers-in-charge of establishments *abroad* and principal officers (see 3 FAH-1 H-3410), employees may not approve their own leave. Annual leave for absence from country of assignment remains subject to permission from the appropriate agency authority.

### **3 FAM 3413.3 Canceling Scheduled Annual Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. Scheduled annual leave is always subject to cancellation.
- b. The GAO has ruled that canceling scheduled annual leave because of normal workload, vacancies, poor leave planning, or to provide other employees the opportunity to use leave, is not considered an exigency of the public business and therefore does not constitute a basis for restoration. However, such leave may be considered for restoration under the provisions of administrative error.
- c. Restoration of forfeited annual leave is effected in accordance with agency-specific procedures.

### **3 FAM 3413.4 Rescheduling Annual Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

In order for canceled annual leave to be considered for restoration at the end of the leave year, it must be rescheduled in writing by the approving official for use before the end of the leave year. If the leave is not rescheduled, reasons for not rescheduling must be documented in the same manner and detail as required for initially canceling scheduled annual leave (see 3 FAM 3410).

## **3 FAM 3414 RESTORATION OF FORFEITED ANNUAL LEAVE**

### **3 FAM 3414.1 Designation of Decision Officers to Restore Annual Leave Forfeited Because of an Exigency of the Public Business**

*(TL:PER-367; 04-08-1999)*

*(State Only)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. The following officials have been delegated authority to determine, for personnel under their respective jurisdiction, whether assigned in the United States or *abroad*, that an exigency of the public business was of such major importance that employees could not use scheduled annual leave to avoid forfeiture, and to approve the restoration of annual leave because of such exigency:

(1) To all assistant secretaries, and officials occupying positions established by law at an equivalent rank, with further delegation in writing to their respective executive directors (to the Executive Director of the Executive Secretariat for those organizations provided executive direction by S/S-EX).

(2) To officials occupying positions designated by the Secretary to rank with assistant secretaries, with further delegation in writing to their respective executive directors or equivalent (including the Executive Director S/S-EX as provided in paragraph a, above); and

(3) To the Executive Secretary of the Department with further delegation in writing to the Executive Director, S/S-EX, for employees not covered by the delegations in paragraphs a and b above.

b. A copy of the written delegation authorized above shall be furnished to the Director, Office of Employee Relations (PER/ER) and the Director, Domestic Financial Operations (FMP/DFO). The above authorities may not be delegated further.

### **3 FAM 3414.2 Requesting and Approving Restored Leave**

*(TL:PER-367; 04-08-1999)*

*(State Only)*

*(Applies to Foreign Service & Civil Service Employees)*

a. The employee should forward a request for approval of restoration of annual leave, forfeited because of operational demand, *administrative error and/or medical injury or sickness* through the employee's executive or administrative officer, to the executive office of the appropriate supervisory bureau or office in the Department to whom authority has been delegated to approve restoration of forfeited annual leave. Requests should be submitted *90 days* after the end of the leave year.

b. Decision offices must sign two copies of any memorandum of approval. The original goes to the employee. The other signed copy, together with other documentation, is sent to the appropriate payroll office.

c. *Restored annual leave must be used by the end of the year ending two years after:*

*(1) The date of restoration of the annual leave forfeited because of administrative error;*

*(2) The date fixed by the supervisor as the termination date of the exigency of public business which resulted in forfeiture of the annual leave; or*

*(3) The date the employee recovers and returns to duty when leave was forfeited because of sickness.*

*The employee shall forfeit any unused restored annual leave at the end of the two-year time period and has not further right to restoration (5 CFR 630.306).*

*d. Unused restored annual leave may be transferred or donated under the Voluntary Leave Transfer Program (5 CFR 630.901) or used as substitution of paid leave under the Family Medical Leave Act (FMLA) (5 CFR 630.1205(b)(1)).*

## **3 FAM 3415 ADVANCE ANNUAL LEAVE**

### **3 FAM 3415.1 General**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. An employee appointed for 90 days or longer may be advanced annual leave not in excess of the amount the employee would earn during the remainder of the leave year, or the amount which would accrue up to the expiration date of the appointment, whichever occurs first.

b. Applications for advance annual leave are considered upon the merits of the individual case. Absence for a period in excess of the amount of annual leave earned, unless approved as prescribed, may be approved as leave without pay.

### **3 FAM 3415.2 Overdrawn Annual Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Whenever, at the end of the leave year, reductions in annual leave accruals due to periods in a non-pay status result in a final deficit in the annual leave account, the deficit amount will be carried forward for charge against leave earned in the following year, unless the employee chooses to liquidate the indebtedness by refund. However, if a deficit results from erroneous computations or an advance in excess of that which could be earned during the leave year, the indebtedness must be liquidated by refund of the amount paid for the period of such excess. If necessary, refund should be effected by payroll deductions.

### **3 FAM 3416 GRANTING ANNUAL LEAVE BEFORE SEPARATION**

*(TL:PER-367; 04-08-1999)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. Generally, annual leave will not be granted immediately before separation, except when in the interest of the Service.

b. The Comptroller General has ruled that the fixing of a termination date to coincide with the expiration of annual leave for which lump-sum payment may be made must be avoided. The granting of such leave is limited to cases where the exigencies of the Service require such action and is subject to prior approval.

c. If an employee resigns or applies for retirement while on leave, leave with pay status terminates not later than the end of the pay period in which the notification is received in the appropriate headquarters Personnel Office. However, at his or her request, the employee may be continued on leave without pay for such period as may be deemed to be in the interest of the U.S. Government.

### **3 FAM 3417 ANNUAL LEAVE IN LIEU OF NON-PAY STATUS DURING SUSPENSION**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Annual leave in lieu of non-pay status during suspension may not be granted except when an employee is suspended summarily in the interest of national security under the provisions of 5 U.S.C. 7532. In such case, the employee may request, and with the approval of the appropriate headquarters office, be granted annual leave not to exceed the balance to the employee's credit as of the date of suspension in lieu of non-pay status. In the event the employee is restored with back pay, the annual leave charged for the period covered by back pay is restored.

## **3 FAM 3418 CHARGING ANNUAL LEAVE**

### **3 FAM 3418.1 Minimum Charge**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

The minimum charge for annual leave is one-quarter hour (one hour for USIA, USAID, and Commerce), and additional charges are in multiples thereof.

### **3 FAM 3418.2 Local Holidays**

*(TL:PER-367; 04-08-1999)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Posts *abroad* will issue an administrative order excusing employees from duty on certain local national holidays.

(1) Annual or sick leave approved and scheduled for use after the issuance of such an order, which falls on such local holidays, will not be charged to the employee. However, an employee is not entitled to any local holidays after departure from post on home leave, transfer orders, or rest and recuperation travel.

(2) In certain circumstances, local celebration of holidays not included in the post administrative order excusing employees from duty, will preclude some employees from reporting for duty. In such cases, other employees, whose regular duties, such as working with local ministries and agencies, cannot be performed due to the local holiday, but who are otherwise present and available for duty may be excused if not needed and will not be charged leave.

### **3 FAM 3418.3 Annual Leave in Lieu of Sick Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

a. At the written request of the employee, absence because of sickness or injury may be charged against annual leave rather than sick leave. Such request must be made by the employee within two workdays after return to duty from such illness and may not thereafter be changed. Otherwise, annual leave may not be substituted retroactively for period previously recorded as sick leave.

b. Annual leave may be used to liquidate an advance of sick leave provided the time remaining in the leave year would permit the use of such annual leave and the administrative approval for the use of such leave otherwise would have been granted.

### **3 FAM 3418.4 Annual Leave In Lieu of Home Leave**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

See 3 FAM 3435.

### **3 FAM 3418.5 Excess Transit Time**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Travel time in excess of allowed transit time shall be charged to annual leave or leave without pay.

### **3 FAM 3418.6 Involuntary Charges**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

It is within administrative discretion to close an office when normal operations are interrupted by events beyond the control of management or employees; for managerial reasons, when the closing of an establishment or portion thereof is required for short periods of time; or when employees are released from work to participate in civil activities which the U.S. Government is interested in encouraging. When an office is closed, compensation may not be withheld from per annum employees, or regular employees compensated at a per diem, per hour, or piecework rate. Regular employees in these categories are those who have a regular tour of duty, and whose appointments are not less than 90 days, or who have been currently employed for a continuous period of 90 days under one or more appointments without a break in service. During periods when offices are closed, employees who have annual leave or compensatory time to their credit may be required by administrative action to take such leave.

### **3 FAM 3419 UNASSIGNED**